

species to which the claims shall be restricted if no generic claim is finally held to be allowable. Specifically, the Examiner has required the Applicants to select a single species from one of the following two species:

species I shown in Fig. 2 (claims 26, 31-35, 44 and 45), including a hydraulic unit in the form of a tube filled with a liquid; and

species II shown in Fig. 3 (claims 27, 28, 37-43, 46 and 47), including a hydraulic unit in the form of two diaphragms separated by a liquid.

Applicants elect, with traverse, species I (including a hydraulic unit in the form of a tube filled with a liquid). The claims which read thereon are claims 20-26, 29-36 and 44-45.

According to the Examiner, the two species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because the species lack the same or corresponding special technical features. Specifically, the Examiner has alleged that “the species share in common a drive pump, a hydraulic unit and a driven pump,” and that “the species differ because the hydraulic units have different forms, in species 1 the hydraulic unit is in the form of a tube filled with a liquid, in species 2 the hydraulic unit is in the form two diaphragms separated by a liquid and the diaphragms forming with a housing first and second chambers.” Office Action mailed on 7/18/02, page 3. Furthermore, the Examiner has alleged that species 1 is shown in figure 2 of the present application, and that species 2 is shown in figure 3 of the present application.

It is respectfully submitted that the claimed invention does not lack unity of invention under PCT Rule 13.1 for at least the following reasons. The present invention, as currently recited in independent claim 20, is directed to a pumping device comprising a pumping unit and a membrane unit having a membrane bordering a first chamber. The

pumping unit is connected to the first chamber by a hydraulic unit containing hydraulic fluid that is in fluid connection with the first chamber. In figure 3 of the present application, interspace 20 between the layers 11' and 11" of the membrane 11 does not form a hydraulic unit since this interspace does not connect the pumping unit to the first chamber with which the hydraulic fluid is in fluid connection, as is required for the hydraulic unit of the present invention as recited in claim 20.

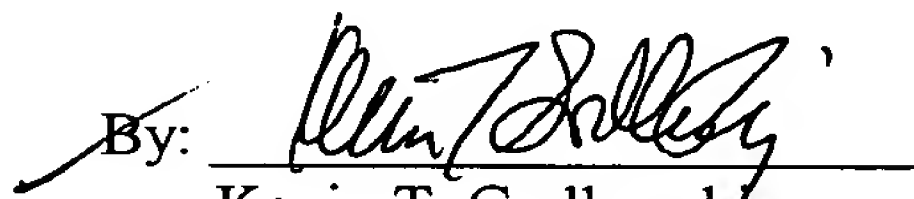
Therefore, it is respectfully submitted that the Examiner is incorrect in his assertion that the hydraulic unit of species 2 (allegedly shown in figure 3) would be in the form of two diaphragms separated by a liquid. That is, contrary to the assertion of the Examiner, figure 3 shows an embodiment of the present invention, as recited in claim 20, wherein the membrane 11 of the membrane unit has a particular structure. As described in originally filed claim 18 and currently pending claim 27, the membrane 11 in the particular embodiment shown in figure 3 comprises two membrane layers which border an interspace which is filled with an incompressible medium. *See* specification, page 6, line 28 through page 7, line 7; page 9, lines 6-12. In other words, what is alleged to be the hydraulic unit of species 2 by the Examiner is instead a particular embodiment of the membrane recited in claim 20, and has nothing to do with the hydraulic unit recited in claim 20.

Thus, it is respectfully submitted that the election of species requirement is improper and should therefore be withdrawn.

In view of the foregoing, the application is now believed to be in condition for examination. Prompt consideration and allowance of the pending claims are respectfully requested.

Respectfully submitted,  
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